

Part B Insider (Multispecialty) Coding Alert

COMPLIANCE ROUNDUP: OIG Okays Gift Cards for Unhappy Patients, But Questions Excluding Ordering Doc's NPI on Claims

Compliance experts be on the lookout: The OIG is watching when you put your own NPI in the ordering physician's slot on Medicare claim forms

While Congress was on hiatus last week, the OIG was hard at work, issuing a flurry of new testimony and decisions to guide healthcare practices. Here's a look at a few of the decisions that may affect your practice.

OIG Rules on Gift Card Case

On July 7, the OIG released its advisory opinion regarding a health system's decision to offer \$10 gift cards to patients who complain about issues such as long wait times and cancelled appointments.

The OIG ruled that the health system's issuance of \$10 gift cards does not violate the anti-kickback statute; therefore, the entity may continue distributing the gift cards.

Dollar limit: Of note, the health system asserted that it would track the issuance of gift cards so that no single patient could get more than \$50 in gift card value per year.

Possible motive: The advisory opinion doesn't indicate why the \$50 limit is significant, but experts believe that several possible reasons may exist.

-Back when the Stark regulation regarding nonmonetary compensation to doctors was being thrashed out (the \$300 per year limit), the initial proposed rule included a \$50 per gift limit as well as the \$300 aggregate limit,- says **William W. Horton, Esq.**, of **Haskell Slaughter Young & Rediker, LLC**.

-While the per-gift limit was dropped from the final rule, I would suspect the system may have taken that into account in concluding that \$50 was sort of a presumably de minimis amount in the eyes of the government,- Horton opines.

In addition, the health plan may have set the limit at \$50 to prevent patients from gaming the system, he suggests. -All of this is speculation, but I assume the system concluded that there had to be some kind of limit for both OIG reasons and practical reasons, and just figured that \$50 was low enough to serve both interests,- Horton says.

OIG Plans to Audit NPIs

In addition to issuing advisory opinions and audit reports, the OIG also made time this week to testify before Congress regarding vast abuses of provider numbers assigned to claims for durable medical equipment (DME).

On July 9, **Regional Inspector General Robert Vito** told the **Senate Subcommittee on Investigations** that physician orders for DME have largely run amok, offering examples of millions of dollars in DME abuse.

For example, in 1999, Medicare paid almost \$8 million for DME claims that listed the UPIN of physicians who had died prior to the dates of service. Another \$32 million flowed into the pockets of DME suppliers that listed invalid UPINs, Vito noted during his testimony.

CMS- June 2 directive allowing DME suppliers to put their own NPIs in secondary identifier fields if they didn't have ordering physicians- NPIs appeared to trouble Vito as well.

-The communication does not indicate the date when this policy will be discontinued,- Vito said. -However, as long as DME suppliers are allowed to enter their own NPIs rather than the NPIs of the ordering physicians, a major control for preventing fraud, waste and abuse will not exist.-

The OIG intends to conduct -several evaluations on the NPI during fiscal year 2009,- Vito said.

What this means to you: You must truly make every attempt to acquire an ordering physician's NPI before putting your own NPI on a claim form, or the OIG may have questions for you.

To read Vito's full testimony, see http://oig.hhs.gov/testimony/docs/2008/r_vito_testimony.pdf.